

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,856	02/22/2002	William S. Herz	156374-0010 (PA-1255)	1717
1622	7590	08/11/2004	EXAMINER	
IRELL & MANELLA LLP 840 NEWPORT CENTER DRIVE SUITE 400 NEWPORT BEACH, CA 92660			CHOJNACKI, MELLISSA M	
			ART UNIT	PAPER NUMBER
			2175	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/080,856

Applicant(s)

HERZ, WILLIAM S.

Examiner

Melissa M Chojnacki

Art Unit

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The arrangement of the disclosed application does not conform with 37 CFR 1.77(b).

Section headings appear in lowercase and are underlined throughout the disclosed specification.

Section headings should not be underlined and should appear in UPPERCASE. Appropriate corrections are required according to the guidelines provided below:

2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)

Art Unit: 2175

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffert et al. (U.S. Patent No. 6,282,549) in view of Liaguno et al. (U.S. Patent No. 5,729,741).

As to claim 1, Hoffert et al. teaches a method of indexing a media element (See abstract; column 2, lines 32-35) comprising:

selecting a characterization process to be applied to the media element

(See column 12, lines 24-30; column 15, lines 5-11);

Art Unit: 2175

applying the characterization process to the media element (column 19, lines 53-60), the characterization process to include, generating a data string for the media element, the data string including trait information for the media element (See column 6, lines 16-17); and

indexing the media element using the data string (See column 6, lines 16-17).

Hoffert et al. does not teach identifying the media element to be indexed.

Liaguno et al. teaches a system for storage and retrieval of diverse types of information obtained from different media sources, which includes video, audio, and text transcriptions (See abstract), in which he teaches identifying the media element to be indexed (See abstract; column 5, lines 21-30).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Hoffert et al., to include identifying the media element to be indexed.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hoffert et al., by the teachings of Liaguno et al. because identifying the media element to be indexed would efficiently storing multiple types of media image information, including but not limited to text, still images, animation, graphics, video, and audio, derivable from a variety of media image sources, such as computer data base files, hard copy print media, photographs, audio cassettes, video camera, etc., and also rapidly accessing any piece of media image information for reproduction on an output

Art Unit: 2175

device, such as a user display terminal or printer (See Liaguno et al., column 1, lines 9-19).

As to claims 2 and 21, Hoffert et al. as modified, teaches wherein the media element is one of a video clip, static photograph, JPEG image, animation, audio clip, and text (See Hoffert et al., column 21, lines 54-58).

As to claims 3 and 22, Hoffert et al. as modified, teaches wherein identifying the media element comprises selecting the media element and loading the media element into a memory of a computer system (See Liaguno et al., abstract; column 3, lines 27-29); wherein the instruction sequences to cause the processor to identify the media element include instruction sequences to select the media element and to load the media element into the memory (See Liaguno et al., abstract; column 3, lines 27-29).

As to claims 4 and 23, Hoffert et al. as modified, teaches wherein loading the media element into the memory comprises downloading the media element over a network connection (See Hoffert et al., column 6, lines 34-38; column 7, lines 20-22; also see Liaguno et al., abstract; column 3, lines 27-29); wherein the media element is loaded into the memory by downloading the media element over a network connection (See Hoffert et al., column 6, lines 34-38; column 7, lines 20-22; also see Liaguno et al., abstract; column 3, lines 27-29).

As to claims 5 and 24, Hoffert et al. as modified, teaches further comprising determining if the media element can be compressed and, if so, compressing a data file containing the media element before applying the characterization process to the media element (See Hoffert et al., column 9, lines 56-57; column 16, lines 63-67); wherein the memory further includes instruction sequences to cause the processor to determine if the media element can be compressed and, if so, to compress a data file containing the media element before applying the characterization process to the media element (See Hoffert et al., column 9, lines 56-57; column 16, lines 63-67).

As to claims 6 and 25, Hoffert et al. as modified, teaches wherein selecting the characterization process comprises selecting the characterization process to be applied to the media element from a plurality of characterization processes based on a predetermined criteria (See Hoffert et al., column 21, lines 1-10, lines 56-65); wherein the instruction sequences to cause the processor to select the characterization process further cause the processor to select the characterization process to be applied to the media element from a plurality of characterization processes based on a predetermined criteria (See Hoffert et al., column 21, lines 1-10, lines 56-65).

As to claim 20, Hoffert et al. teaches a system for indexing a media element (See abstract; column 2, lines 32-35) comprising:

Art Unit: 2175

select a characterization process to be applied to the media element (See column 12, lines 24-30; column 15, lines 5-11);

apply the characterization process to the media element (column 19, lines 53-60), the characterization process to, generate a data string for the media element, the data string including trait information for the media element (See column 6, lines 16-17); and

index the media element using the data string (See column 6, lines 16-17).

Hoffert et al. does not teach a processor (See abstract; column 3, lines 27-29); a display coupled to the processor (See abstract; column 1, lines 9-19; column 2, lines 43-64); a memory coupled to the processor (See abstract; column 3, lines 27-29), the memory containing instruction sequences to cause the processor to:

identify the media element to be indexed;

Liaguno et al. teaches a system for storage and retrieval of diverse types of information obtained from different media sources, which includes video, audio, and text transcriptions (See abstract), in which he teaches a processor; a display coupled to the processor; a memory coupled to the processor, the memory containing instruction sequences to cause the processor to:

identifying the media element to be indexed (See abstract; column 5, lines 21-30).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Hoffert et al., to

Art Unit: 2175

include a processor; a display coupled to the processor; a memory coupled to the processor, the memory containing instruction sequences to cause the processor to: identify the media element to be indexed.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hoffert et al., by the teachings of Liaguno et al. because a processor; a display coupled to the processor; a memory coupled to the processor, the memory containing instruction sequences to cause the processor to: identify the media element to be indexed would efficiently storing multiple types of media image information, including but not limited to text, still images, animation, graphics, video, and audio, derivable from a variety of media image sources, such as computer data base files, hard copy print media, photographs, audio cassettes, video camera, etc., and also rapidly accessing any piece of media image information for reproduction on an output device, such as a user display terminal or printer (See Liaguno et al., column 1, lines 9-19).

5. Claims 7-10, 12-19, 26-29 and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffert et al. (U.S. Patent No. 6,282,549) in view of Liaguno et al. (U.S. Patent No. 5,729,741), as applied to claims 1-6 and 20-25 above, and further in view of Goldberg et al., (U.S. Patent No. 5,655,117).

As to claims 7 and 26, Hoffert et al. as modified, still does not teach wherein the characterization process further includes, determining at least one common pixel value of the media element, and determining a relationship

Art Unit: 2175

between a first pixel and a second pixel of the media element, the first and second pixels each having the at least one common pixel value; wherein the characterization process is further to, determine at least one common pixel value of the media element, and determine a relationship between a first pixel and a second pixel of the media element, the first and second pixels each having the at least one common pixel value.

Goldberg et al., teaches a method and apparatus for indexing multimedia information streams (See abstract), in which he teaches wherein the characterization process further includes, determining at least one common pixel value of the media element, and determining a relationship between a first pixel and a second pixel of the media element, the first and second pixels each having the at least one common pixel value (See column 4, lines 14-22); wherein the characterization process is further to, determine at least one common pixel value of the media element, and determine a relationship between a first pixel and a second pixel of the media element, the first and second pixels each having the at least one common pixel value (See column 4, lines 14-22).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Hoffert et al. as modified, to include wherein the characterization process further includes, determining at least one common pixel value of the media element, and determining a relationship between a first pixel and a second pixel of the media element, the first and second pixels each having the at least one common pixel value; wherein the characterization process is further to, determine at least one

Art Unit: 2175

common pixel value of the media element, and determine a relationship between a first pixel and a second pixel of the media element, the first and second pixels each having the at least one common pixel value.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hoffert et al. as modified, by the teachings of Goldberg et al., because wherein the characterization process further includes, determining at least one common pixel value of the media element, and determining a relationship between a first pixel and a second pixel of the media element, the first and second pixels each having the at least one common pixel value; wherein the characterization process is further to, determine at least one common pixel value of the media element, and determine a relationship between a first pixel and a second pixel of the media element, the first and second pixels each having the at least one common pixel value would provide a method for indexing a multimedia stream to provide information regarding the content of the stream (See Goldberg et al., column 1, lines 46-56).

As to claims 8 and 27, Hoffert et al. as modified, teaches wherein determining at least one common pixel value comprises determining at least one common pixel value for the media element, and wherein the relationship between the first pixel and second pixel is based on a distance between the first and second pixels (See Goldberg et al., column 3, lines 34-41; column 4, lines 14-22); wherein the at least one common pixel value is at least one common pixel color for the media element, and the relationship between the first pixel and

Art Unit: 2175

second pixel is based on a distance between the first and second pixels (See Goldberg et al., column 3, lines 34-41; column 4, lines 14-22).

As to claims 9 and 28, Hoffert et al. as modified, teaches wherein applying the characterization process further comprises:

determining at least one common pixel value of the media element (See Goldberg et al., column 4, lines 14-22); determining a first tolerance for each of the at least one common pixel value (See Hoffert et al., column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26); identifying a plurality of pixels of the media element having the at least one common pixel value (See Goldberg et al., column 4, lines 14-22); determining pixel locations for each of the plurality of pixels; determining a second tolerance for the pixel locations (See Hoffert et al., column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26); and, determining relative pixel distance information for the plurality of pixels (See Goldberg et al., column 4, lines 14-22); wherein the characterization process is further to:

determine at least one common pixel value of the media element (See Goldberg et al., column 4, lines 14-22); determine a first tolerance for each of the at least one common pixel value (See Hoffert et al., column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26); identify a plurality of pixels of the media element having the at least one common pixel value (See Goldberg et al., column 4, lines 14-22); determine pixel locations for each of the plurality of pixels; determine a second tolerance for the pixel locations; and, determine

relative pixel distance information for the plurality of pixels (See Goldberg et al., column 4, lines 14-22).

As to claims 10 and 29, Hoffert et al. as modified, teaches where generating a data string for the media element comprises generating a data string for the media element, the data string including trait information for the media element, the trait information to be based on the at least one common pixel value and the relative pixel distance information (See Hoffert et al., column 5, lines 11-21; column 8, lines 35-48 also see Goldberg et al., column 4, lines 14-22); where the characterization process is further to, generate a data string for the media element, the data string including trait information for the media element, the trait information based on the at least one common pixel value and the relative pixel distance information (See Hoffert et al., column 5, lines 11-21; column 8, lines 35-48 also see Goldberg et al., column 4, lines 14-22).

As to claims 12 and 31, Hoffert et al. as modified, teaches further comprising adjusting at least one of the first and second tolerances to achieve a desired result (See Hoffert et al., column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26); where the characterization process is further to, adjust at least one of the first and second tolerances to achieve a desired result (See Hoffert et al., column 8, lines 35-41; column 12, lines 51-54; column 21, lines 8-26).

As to claims 13 and 32, Hoffert et al. as modified, teaches further comprising assigning a label to the media element, and accessing the media element using the label (See Hoffert et al., column 5, lines 11-21, where "label" is read on "tag"; column 8, lines 35-48; also see Liaguno et al., abstract; column 10, lines 6-20); where the memory further includes instructions sequences to cause the processor to assign a label to the media element, and to access the media element using the label (See Hoffert et al., column 5, lines 11-21, where "label" is read on "tag"; column 8, lines 35-48; also see Liaguno et al., abstract; column 10, lines 6-20).

As to claims 14 and 33, Hoffert et al. as modified, teaches wherein the label is used as a reference pointer to the data string (See Hoffert et al., column 5, lines 11-21, where "label" is read on "tag"; column 8, lines 35-48; also see Liaguno et al., abstract; column 10, lines 6-20).

As to claims 15 and 34, Hoffert et al. as modified, teaches wherein indexing the media element comprises comparing the data string for the media element to an additional data string, the additional data string corresponding to an additional media element, and associating the media element with the additional media element where the data string and additional data string have a common trait (See Hoffert et al., column 5, lines 11-21; column 8, lines 35-48; column 21 lines 34-37; also see Liaguno et al., abstract; column 10, lines 6-20); wherein the instruction sequences to cause the processor to index the media

Art Unit: 2175

element: further includes instructions sequences to, compare the data string for the media element to an additional data string, the additional data string corresponding to an additional media element, and to associate the media element with the additional media element where the data string and additional data string have a common trait See Hoffert et al., column 5, lines 11-21; column 8, lines 35-48; column 21 lines 34-37; also see Liaguno et al., abstract; column 10, lines 6-20).

As to claim 16, Hoffert et al. as modified, teaches further comprising displaying a result of the indexing to a user (See Hoffert et al., column 29, lines 28-36).

As to claims 17 and 35, Hoffert et al. as modified, teaches wherein the characterization process is applied only to a predetermined area of the media element (See Hoffert et al., column 19, lines 56-63; column 21, lines 1-10).

As to claims 18 and 36, Hoffert et al. as modified, teaches wherein the characterization process further includes determining at least one shape-based trait of the media element (See Hoffert et al., column 21 lines 11-20; column 15, lines 8-14, lines 52-53, where "shape-based trait" is read on "volume"), the at least one shape-based trait to be included in the trait information of the data string (See Hoffert et al., column 21 lines 34-37, where "string" is read on "algorithm"); wherein the characterization process is further to, determine at least

Art Unit: 2175

one shape-based trait of the media element (See Hoffert et al., column 21 lines 11-20; column 15, lines 8-14, lines 52-53, where “shape-based trait” is read on “volume”), the at least one shape-based trait to be included in the trait information of the data string (See Hoffert et al., column 21 lines 34-37, where “string” is read on “algorithm”).

As to claims 19 and 37, Hoffert et al. as modified, teaches further comprising retrieving the media element by reviewing a list of labels label (See Hoffert et al., column 5, lines 11-21, where “label” is read on “tag”; column 8, lines 35-48; also see Liaguno et al., abstract; column 10, lines 6-20), each of the labels corresponding to a data string representing an indexed media element label (See Hoffert et al., column 5, lines 11-21; column 8, lines 35-48); and selecting the media element from the list for display label (See Hoffert et al., abstract; column 5, lines 11-21; column 8, lines 35-48; column 19, lines 56-63); wherein the instruction sequences further cause the processor to retrieve the media element by displaying a list of labels (See Hoffert et al., column 5, lines 11-21; column 8, lines 35-48; also see Liaguno et al., abstract; column 10, lines 6-20), each of the labels corresponding to a data string representing an indexed media element (See Hoffert et al., column 5, lines 11-21; column 8, lines 35-48); and to receive user input to select the media element from the list for display (See Hoffert et al., abstract; column 5, lines 11-21; column 8, lines 35-48).

Art Unit: 2175

6. Claims 11 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffert et al. (U.S. Patent No. 6,282,549) in view of Liaguno et al. (U.S. Patent No. 5,729,741), further in view of Goldberg et al., (U.S. Patent No. 5,655,117), as applied to claims 1-6 and 20-25 above, and further in view of Delp, (U.S. Patent No. 6,026,411).

As to claims 11 and 30, Hoffert et al. as modified, still does not teach further comprising generating a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents; where the characterization process is further to, generate a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents.

Delp teaches a method, apparatus, and computer program product for generating an image index and for internet searching and querying by image colors (See abstract), in which he teaches further comprising generating a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents (See column 5, lines 30-41, lines 51-62; column 8, lines 64-67; column 9, lines 1-3); where the characterization process is further to, generate a histogram band for each of the at least one common pixel value of the media

Art Unit: 2175

element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents (See column 5, lines 30-41, lines 51-62; column 8, lines 64-67; column 9, lines 1-3).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Hoffert et al. as modified, to include further comprising generating a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents; where the characterization process is further to, generate a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hoffert et al. as modified, by the teachings of Delp because further comprising generating a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element that the at least common pixel value represents; where the characterization process is further to, generate a histogram band for each of the at least one common pixel value of the media element, where the histogram bands are based on a percentage of a predetermined area of the media element

Art Unit: 2175

that the at least common pixel value represents would provide an intelligent method, apparatus and computer program product for building an image index and for querying by image colors images from the internet (See Delp, column 1, lines 44-47).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to system and Method for indexing Electronic information in general:

U.S. Patent No. 5,903,892 to Hoffert et al., for disclosing indexing of media content on a network.

U.S. Patent No. 6,374,260 to Hoffert et al., for disclosing a method and apparatus for uploading, indexing, analyzing and searching media content.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mellissa M. Chojnacki whose telephone number is 730-305-8769. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax

Art Unit: 2175

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mmc
August 6, 2004


SAM RIMELL
PRIMARY EXAMINER